IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

RP.No. 389 of 2007(A)

AGAINST THE JUDGEMENT IN MFA.1234/1998.
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REVIEW PETITIONERS/PETITIONERS IN THE APPEAL:
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1. **T.M.MATHEW,ROSE VILLA,AKATHETHARA VILLAGE,PALAKKAD,NIRAMLYAM,AKATHETHARA, PALAKKAD-8.**

2. **THRESIAMMA,D/O.JOSEPH,ROSE VILLA, PALAKKAD-8,BY POWER OF ATTORNEY HOLDER SRI.P.K.RAMESAN,NIRAMLYAM,AKATHETHARA, PALAKKAD-8.**

BY ADV. SRI.P.N.KRISHNANKUTTY ACHAN(SR.),
SRI.T.SETHUMADHAVAN.

RESPONDENTS/RESPONDENTS:
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1. **THE CUSTODIAN OF VESTED FORESTS & CONSERVATOR OF FOREST,VESTED FOREST CIRCLE, KOZHIKODE.**

2. **STATE OF KERALA, REPRESENTED BY THE CONSERVATOR OF VESTED FOREST BY SPL.GOVERNMENT PLEADER.**

BY GOVERNMENT PLEADER.

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 04/06/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & M.N.KRISHNAN, JJ.

R.P.NO.389 OF 2007 IN
M.F.A.No.1234 OF 1998

Dated 4th June, 2007

ORDER

Koshy,J.

Finding of the Forest Tribunal based on Ext.C1 Commissioner's report and evidence that the land in question was full of forest trees and disputed area is not a cultivated area and not entitled to exemption under sections 3(2) and 3(3) of the Kerala Private Forest (Vesting and Assignment) Act, was upheld by this court by the judgment under review. For claiming exemption under Section 3(3), one has to prove that there is valid title deed. Admittedly, the land was not under personal cultivation of the petitioner on the appointed day. We have also found that it was not proved that claimant has any valid title at the time when the Act came into force and it was also not a cultivated area on the appointed day. A mere statement that there was an intention to cultivate is not enough. Scheduled area is a dense forest. Intention to cultivate has to be gathered only by surrounding circumstances. There is no circumstance to show the same. In any event, already the arguments placed before us were considered while passing the judgment under review. If the above finding is erroneous, it is for the petitioner to file

an appeal. A review petition cannot be equated to a petition for re-hearing of the matter or appeal proceedings. No grounds are made out for reviewing the judgment.

The review petition is dismissed.

J.B.KOSHY
JUDGE

M.N.KRISHNAN
JUDGE

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